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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/062,894	01/30/2002	Clinton S. Hartmann	RFSC-0007	2292
27964	7590	07/27/2005	EXAMINER	
HITT GAINES P.C. P.O. BOX 832570 RICHARDSON, TX 75083			HA, DAC V	
			ART UNIT	PAPER NUMBER

2634

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/062,894
Filing Date: January 30, 2002
Appellant(s): HARTMANN, CLINTON S.

MAILED

JUL 27 2005

GROUP 2800

Jimmy L. Heisz (Reg. No. 38,914)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed on 05/29/05.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

The brief does not contain a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. Therefore, it is presumed that there are none. The Board, however, may exercise its discretion to require an explicit statement as to the existence of any related appeals and interferences.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

The rejection of claims 1-20 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

5,684,871 Devon et al. 11-1997

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-3, 11-13 are rejected under 35 U.S.C. 102 (b) by U.S. Patent No. 5,684,871. This rejection is set forth in a prior Office Action, mailed on 05/06/04.

Claims 4-10, 14-20 are rejected under 35 U.S.C. 1-3 (a) by U.S. Patent 5,684,871. This rejection is set forth in a prior Office Action, mailed on 05/06/04.

(11) Response to Argument

Applicant has argued the followings:

"Devon describes a system for encoding symbols based on the position of a signal characteristic, such as frequency, amplitude or phase, within a pulse position modulation frame. (Col. 2, lines 53-63) The location of the signal characteristic in the pulse position frame of time slots or spaces is used to encode a data symbol. A sync pulse signal transmitted before the start of each frame identifies the frame or group of slots within which the data bearing signal characteristic is located and also can be used to code or encode data based on the frequency of the sync pulse signal. (Col. 9, lines 49-63). In short, Devon describes a system that uses only one slot out of a frame of slots to encode data.

In response to Appellant's request for reconsideration of the Final Rejection, the Examiner states that Appellant has not claimed a frame divided into windows that is

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further divided into time slots. He also notes that limitations from the specification are not read into the claims. Appellant submits that the claims are clear when read in view of the specification. All the discussion in the specification deals with encoding data within a single time period (or frame) divided into time slots used to encode data. There is no need to read a limitation from the specification into the claims, because the claims and specification are talking about the same thing; that is, a time period divided into a group of time slots each having a unique phase/time position and multiple pulses distributed among these time slots to encode a data element by such unique phase/time positions.

The Examiner also states that the term "phase/time" is only interpreted as either time or phase. The Appellant again disagrees. The specification is clear that a pulse in a specific time slot is distinguishable from a pulse in another slot by both time and phase. This claim interpretation by the Examiner is without foundation and contrary to the specification.

Devon describes a single data pulse located within a group of time slots that are transmitted after an identifying sync pulse. Only a single data pulse is located within a number of time slots, even if the sync pulse also carries information by virtue of having one of several different signal characteristics. The Appellant submits that those of ordinary skill in the pertinent art will not view the sync pulse as being within the group of data bearing time slots. The sync pulse, as described in Devon, is always in the same place and is viewed separately from the time slots that carry data. Thus, because Devon only provides for one pulse per group of pulses, it does not anticipate encoding

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Data using multiple pulses distributed among a group of time slots and is not, as such, an anticipating reference with respect to independent Claims 1 and 11. Because Claims 2 and 3 are dependent on Claim 1 and Claims 12 and 13 are dependent upon Claim 11, Devon also cannot be an anticipating reference for Claims 2, 3, 12 and 13."

It is noticed that some of the Applicant's argument had been addressed by the examiner in previous office action(s) (dated 05/06/04 and 09/07/04). Moreover, regarding to independent claim 1, Devon discloses "a time period divided into a group of time slots each having a unique phase/time position" (Fig. 2, elements 200, 250-262; col. 6, lines 11-13) in that, a time domain is divided up into pulse windows ("time slots") including a group of windows of elements 254-262. Each of the "time slots" 254-262 inherently has a unique, at least, time indicated by the time position of that "time slot". As indicated previously, even though Devon discloses encoding the signal utilizing a position in combination with one or more characteristic, (e.g. phase) (col. 2, lines 54-57) the recitation "phase/time" is interpreted as either phase or time (emphasis added). Therefore, Devon meets the limitation of "unique phase/time".

Further, Devon discloses the claimed subject matter "multiple pulses distributed among said time slots encoding a data element by said unique phase/time position" as follows. Devon clearly states that "three keys are used to encode each symbol: the frequency of the synchronization one.burst, the frequency of the signal tone burst, and the pulse position of the signal tone burst" (col. 6, lines 36-39). Therefore, as evidenced in Fig. 2, element 210 for instance, there are "multiple pulses" used to encode the signal and more than one "slot" are used for such encoding (col. 6, lines 44-48).

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Regarding claims 11, 2-3, 12-13 and claims 4-14, 14-20, applicant relies on the argument of that of claim 1, therefore, the same reasoning above is applied.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,




Dac V. Ha
Primary Examiner
Art Unit 2634

July 25, 2005


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